

*REMARKS/ARGUMENTS**Office Action*

The Office Action sets forth a restriction requirement as between (1) a method of inhibiting a viral infection in a mammal by administering a scFv-Fc fusion molecule (Group I; claims 1-30) and (2) a scFv-Fc molecule and related compositions and host cells (Group II; claims 31-84). The Office Action also sets forth an election of species requirement that requires Applicants to elect one of SEQ ID NOs: 1-18.

Applicants' Election

Applicants elect, with traverse, the claims of Group II (claims 31-84) directed to a scFv-Fc molecule and related compositions and host cells.

With regard to the species election requirement, Applicants elect, with traverse, SEQ ID NO: 2 (m9 scFv). All of the claims (i.e., claims 1-84) read on the elected species.

Reconsideration of the group and species restriction requirements is hereby requested.

Discussion of the Restriction Requirement

The subject application is the U.S. national phase of International Patent Application No. PCT/US04/31878. The Office alleges that the inventions defined by the claims of Groups I and II do not relate to a single general inventive concept under PCT Rule 13.2 because they lack the same “special technical features.” Under PCT Rule 13.2, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. PCT Rule 13.2 defines the term “special technical features” as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art (see M.P.E.P. § 1893.03(d))

The claims of Groups I and II are linked so as to form a single general inventive concept. In other words, the claims of Groups I and II share a common special technical feature, which defines the contribution that each claim makes over the prior art. In this respect, all of the claims recite a scFv-Fc fusion molecule comprising a scFv fragment and an

Fc region of an antibody, wherein the scFv-Fc fusion molecule binds to an epitope of a viral envelope protein that is inaccessible to whole immunoglobulin molecules due to molecular steric hindrance. Such a feature is not taught or disclosed in the prior art, including Moulard et al. *Proc. Natl. Acad. Sci. USA*, 99(10): 6913-6918 (2002)).

Given the special technical feature common to the claims of Groups I and II, a search for prior art with respect to either Group I or Group II would likely uncover references that would be considered by the Examiner during the examination of the other group. Thus, Applicants respectfully submit that there would not be a serious burden on the Examiner if the groups of the pending claims were searched together. The nature of the claims, and the subject matter encompassed by the claims, is such that there would be no undue burden on the Examiner to consider all of the claims at the same time. Applicants are not asserting that the pending claims necessarily stand and fall together. Instead, Applicants contend that the relationship of the pending claims, and the subject matter encompassed by the pending claims, renders the restriction requirement improper. Similarly, in view of the nature of the subject matter defined by the pending claims, the election of species requirement is unnecessary.

Accordingly, Applicants respectfully request that the Examiner withdraw the group and species restriction requirements issued against the pending claims. In any event, consistent with an election of species requirement, other species within the elected “genus” should be considered by the Examiner upon an indication of allowable subject matter with respect to the elected species. Moreover, if the elected product claims are found to be allowable, Applicants reserve the right to seek the rejoinder of the nonelected process claims.

Conclusion

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,



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